

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

STIPULATION AND ORDER ON DEPOSITION LIMITS

This Stipulation and Order on Deposition Limits (“Deposition Limits Order”) shall govern all depositions of party and non-party fact witnesses, including, but not limited to, depositions of present and former employees of the parties, Rule 30(b)(6) witnesses, and fact depositions of non-parties taken pursuant to Rule 45 subpoenas or otherwise. It does not apply to expert depositions.

The parties are reminded that any pending or anticipated discovery related motion(s) shall be included in the parties' cumulative Joint Status Reports, at line item II.E. (See Doc. No. 854 at 4).

A. Deposition Limits and Exceptions

1. Party Depositions of Defendants

Plaintiffs may take up to 2,905 hours of depositions of Defendants' party witnesses, inclusive of Rule 30(b)(6) depositions. Plaintiffs shall decide how to allocate these hours among Defendants but shall not take more than twenty-five (25) depositions of Defendant RealPage and fifteen (15) depositions of each of the other Defendant parties, subject to modification by the Court for good cause shown.

2. Party Depositions of Plaintiffs

Defendants may take up to 147 hours of or 21 total depositions of party witnesses.

3. Depositions of Former Employees

A deposition of a party's former employee in which the former employee is represented by party counsel shall be treated as a party deposition. A deposition of a party's former employee in which the former employee is not represented by party counsel or must be subpoenaed to appear for deposition shall be treated as a non-party deposition.

4. Non-Party and Third-Party Depositions

Nothing in this Deposition Limits Order shall be construed as imposing a limit on the number or hours of non-party or third-party witness depositions that either Plaintiffs or Defendants may take.

5. Settling Defendants

Depositions of a settling Defendant will be treated as party depositions under this Deposition Limits Order.

6. Trial Witnesses

Excluded from any party's deposition limits are depositions of witnesses who appear on any opposing party's final pre-trial witness list and who were not previously deposed, unless such witnesses were previously identified in initial disclosures or supplements thereto, served at least ninety (90) days prior to the conclusion of fact discovery.

7. Admissibility and Authentication Depositions

The parties shall use best efforts to resolve any issues of admissibility and authentication without the need for depositions. However, if a 30(b)(6) deposition is required for admissibility and authentication purposes, then that deposition shall not be counted towards the parties' deposition limits.

B. Other Issues

1. Calculating Deposition Hours

A deposition of 4 hours or less counts as a 4-hour deposition. The time allocated to any deposition over 4 hours shall be determined by the videographer's (or court reporter's, if no videographer) count of time on the record.

2. Time Limits for Noticing Party Examination

Subject to the Court's Order on Deposition Protocol (Doc. No. 816), the time limit for questioning by the noticing Party in all 30(b)(1) depositions is seven (7) hours. The seven-hour limit shall not include questioning by the Party defending the deposition or other counsel who cross-noticed the deposition.

3. Time Limits for 30(b)(6) Depositions

Examinations by Plaintiffs in 30(b)(6) depositions shall be limited to a total of ten (10) hours unless: (1) otherwise agreed between the noticing party and defending party, or (2) modified by the Court for good cause shown.

4. Joint 30(b)(1)/30(b)(6) Witnesses

If a witness is deposed under both Rule 30(b)(1) and 30(b)(6), each deposition shall count separately against a party's deposition limits. Such witness shall be made available for up to fourteen (14) hours. The parties shall confer on how best to schedule such depositions, but will endeavor to schedule deposition days consecutively for efficiency and to avoid duplicative travel expenses.

5. Multi-Tracking Depositions

The parties shall have the ability to schedule multiple depositions on a given day for expediency and efficiency purposes; provided, however, no party shall be required to make available more than one witness on the same day.

C. Modifications to this Order

This Deposition Limits Order may be modified at any time: (1) by agreement of all parties, except as otherwise provided; or (2) by order of the Court. The parties will strive to agree on any modifications to this Order through the meet and confer process. If a proposed modification is disputed, the parties may file a joint statement on that dispute in compliance with the Court's discovery dispute resolution procedures. (See Doc. No. 854).

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
UNITED STATES DISTRICT JUDGE